

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

SKYLINE SOFTWARE SYSTEMS, INC.,

Plaintiff,

v.

KEYHOLE, INC., and  
GOOGLE INC.

Defendants.

CIVIL ACTION NO. 04-11129 DPW

**DECLARATION OF DARRYL M. WOO IN SUPPORT OF DEFENDANTS' MOTION  
TO TAKE PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION OFF  
CALENDAR OR, IN THE ALTERNATIVE, TO SET AN APPROPRIATE BRIEFING  
SCHEDULE**

**SPECIAL ACTION REQUESTED – Local Rule 5.1(c)**

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Attorneys for Defendants and  
Counterclaimants  
KEYHOLE, INC. and GOOGLE INC.

Of Counsel  
Darryl M. Woo, admitted *pro hac vice*  
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I, Darryl M. Woo, declare and state as follows:

1. I am a partner with Fenwick & West LLP, and lead counsel for Defendants Keyhole, Inc. and Google Inc. in the above-captioned matter. I make this declaration of my personal knowledge and can competently testify thereto if called upon to do so.

2. On January 4, 2006, I was traveling cross-country by air on a separate matter and for most of the day was unable to receive or make telephone calls. Late that day, I was able to retrieve a voicemail message from Plaintiff's counsel informing me that Plaintiff planned to file a preliminary injunction motion. In his voicemail message, Plaintiff's counsel asked if I would assent to the motion and if I would agree to allow Plaintiff to exceed the page limit on briefs set by the Local Rules. I was unable to return Plaintiff's counsel's call, however, until the following day, January 5.

3. Plaintiff proceeded to file its Motion for Preliminary Injunction on January 4, 2006, before awaiting my return call.

4. On January 5, 2006, I contacted Plaintiff's counsel in response to his voicemail message of the prior day. By that time, I found that Plaintiff had already filed a motion for preliminary injunction. I told him that I did not assent to the motion but would assent to his exceeding the page limit if he would reciprocate. He agreed to reciprocation on the page limits. I further requested that Plaintiff take its Motion for Preliminary Injunction off calendar. Plaintiff would not agree to take its Motion for Preliminary Injunction off calendar. In the alternative, I requested that Defendants have until thirty days after issuance of a claim construction order before responding to Plaintiff's Motion for Preliminary Injunction. Again, Plaintiff's counsel would not agree.

5. I also raised the issue of Defendants' inability to oppose the Motion for Preliminary Injunction without revealing Defendants' confidential proprietary information and trade secrets, inasmuch as no protective order had yet been entered in the case. Plaintiff agreed, confirming in a subsequent email, that Defendants could have thirty days after filing to respond

to the Motion for Preliminary Injunction (instead of the usual 14 days). We agreed to negotiate a protective order during that time.

6. I also requested that Plaintiff make Dr. Terry Keating, who submitted a declaration in support of Plaintiff's Motion for Preliminary Injunction charging Defendants with infringement, available to Defendants for deposition so that Defendants could sufficiently respond to his charges. Plaintiff would not agree to allow Dr. Keating to be deposed.

7. Attached as Exhibit A to this Declaration is a true and correct copy of June 28, 2005 press release obtained from Google, Inc.'s website at [www.google.com](http://www.google.com), announcing Google, Inc.'s launch of Google Earth.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 9th day of January 2006 at San Francisco, California.

/s/ Darryl M. Woo

## Certificate of Service

I hereby certify that, on January 9, 2006, I caused a true and accurate copy of the foregoing document to be served upon all counsel of record for each party by complying with this Court's Administrative Procedures for Electronic Case Filing.

By: /s/ Darryl M. Woo  
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